

EXHIBIT B

ORIGINAL
FILED

JUN 18 2002

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

BURST.COM, INC.

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Civil Action No.

WDB

COMPLAINT AND JURY
DEMAND

COMPLAINT

Plaintiff Burst.com, Inc. ("Burst") brings this action for damages and other relief for Defendant Microsoft Corporation's ("Microsoft") wrongful theft of Burst's intellectual property and damage to its business by means of anticompetitive, collusive and exclusionary business practices. Burst spent years and many millions of dollars developing innovative technology to deliver high quality video over computer networks such as the Internet. Upon seeing the threat posed by Burst's innovative technology, as it had in the cases of many

COMPLAINT AND JURY DEMAND -- Page 1

1 where downstream bandwidth above and beyond what is actually being used for the media
2 stream being played is used to cache unplayed content.
3

4 84. Although this Corona suite of digital media technologies has only been
5 released in Beta version to date, this version incorporates substantial portions of Burst's
6 patents and trade secrets that were specifically disclosed to Microsoft by and before
7 December 2000. Microsoft's newly announced Corona suite of platform technologies
8 misappropriates Burst's intellectual property.
9

10 85. In a recent press release, Microsoft announced that it has been "using the
11 technical beta of the new Windows Media Services in Windows .NET Server for more than
12 two months..." According to Microsoft, "MSNBC was able to observe the scalability
13 innovations of the new Windows Media 'Corona' media services firsthand when live video
14 content had a huge spike in streaming traffic." Further, Microsoft claimed that it "engineered
15 the 'Corona' server not only to maximize scalability; it is engineered to deliver a faster,
16 smoother television-like viewing experience for streamed audio and video, and optimize the
17 economics of delivering digital media for companies on the Internet and in corporate
18 intranets." (*MSNBC.com Confirms That Windows Media 'Corona' Server Beta Delivers
19 Significant Media Server Scalability Gains*, July 12, 2002, source Microsoft Corp.).
20

21 86. U.S. Patent No. 4,963,995 ("the '995 patent"), entitled "Audio/Video
22 Transceiver Apparatus Including Compression Means," is held by Burst. The '995 patent was
23 filed on December 27, 1988 and issued on October 16, 1990. A true and exact copy of the
24 '995 patent is attached hereto as Exhibit A, and made a part hereof.
25
26

1
2 120. Burst seeks a judicial determination that Microsoft has infringed and/or is
3 infringing the '995 patent, the '839 patent, and the '705 patent. A declaration of this kind is
4 necessary and appropriate, in order to determine the parties' rights and obligations with
5 respect to the matters in dispute between them, and to avoid a multiplicity of lawsuits with
6 possibly inconsistent results.

7
8 **Seventh Claim for Relief: Patent Infringement**
(Patent Infringement Under The Patent Act, 35 U.S.C. §§ 100, *et seq.*)

9 121. Plaintiff incorporates the allegations of paragraphs 1 through 120 above.

10 122. Plaintiff is the owner of valid United States patents, the '995 patent, the '839
11 patent, and the '705 patent.

12 123. Microsoft's conduct in manufacturing, using, offering for sale, distributing,
13 importing, and/or selling products, such as, but not limited to, its Corona product, its Corona
14 Media Services software, and its .NET Media Server, which runs its Corona Media Services
15 software, and/or its Movie Maker software product, that utilize, incorporate and/or encompass
16 the apparatus or methodology of the '995 patent, the '839 patent, and the '705 patent,
17 constitute infringement of Plaintiff's rights under the '995 , '839, and '705 patents.
18

19 124. As a direct and proximate result of Microsoft's acts of patent infringement,
20 Microsoft is liable to Plaintiff for actual damages suffered by Plaintiff, and any profits
21 realized on the sale of Microsoft's Corona product, Corona Media Services software, its .NET
22 Media Server, which runs its Corona Media Services software, and/or its Movie Maker
23 software product, and/or other products utilizing, incorporating, and/or encompassing the
24 apparatus or methodology of the '995 patent, the '839 patent, and the '705 patent., which are
25
26

1
2 12. For an order that defendant, all persons acting on its behalf or under its
3 direction or control, and all successors thereto, be permanently enjoined from:

- 4 a. Infringing plaintiffs' patents,
5 b. Using plaintiffs' trade secrets without permission,
6 c. Continuing any practice that excludes competitors or maintains a
7 monopoly in the relevant markets.
8

9 13. For such other permanent relief as is necessary and appropriate to restore
10 competitive conditions in the markets affected by Microsoft's unlawful conduct.

11 14. For such additional relief as the Court may find just and proper.

12 Dated: June 18, 2002
13
14

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28 By  _____
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